

REMARKS

In an action dated January 27, 2009 ("Office Action"), the Examiner considered pending claims 1-6, following which claims 1-6 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,620,456 to Sauer et al. ("Sauer"). The Abstract also was objected to for containing phrases that can be implied.

The following remarks concerning the January 27, 2009, Office actions are respectfully submitted.

Abstract

It is respectfully contended that the objection to the Abstract is not in accordance with MPEP § 608.01(b). That section does not proscribe the use of the term "the present invention," but instead seeks to eliminate redundancy from phrases such as "*[t]he disclosure defined by this invention.*" MPEP § 608.01(b) (emphasis added). Nevertheless, solely to advance the prosecution of this application without further expense and delay, a replacement Abstract is presented which does not contain the term "the present invention." The replacement Abstract moots the objection, and withdrawal of the objection is respectfully requested.

Rejections Based on Sauer

The rejections based on Sauer are respectfully traversed. Claims 1-6 contain many limitations not disclosed or implied by Sauer. For example, claim 1 requires:

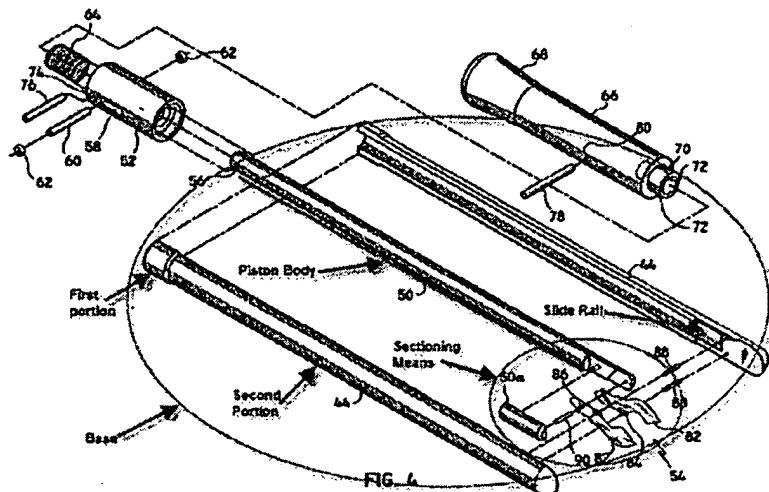
sectioning means slide-mounted in the base *along a first axis*
contained in the longitudinal plane of symmetry of the device

and

a first piston slide-mounted in a sleeve of the sectioning means
along a second axis contained in the longitudinal plane of
symmetry of the device and *secant to the first sliding axis* of the
sectioning means.

(Emphasis added). The orientation of the first and second axes required by claim 1 is but one of many limitations of claims 1-6 not found in Sauer.

The Office Action alleges that Sauer discloses "sectioning means (see figure 4, below) slide-mounted in the base along a first axis." From the Office Action's amended Figure 4 of Sauer, the purported "Sectioning Means" of Sauer (50a, 82, 84, 86, 88, and 90) are purportedly "slide-mounted" in the "Base" (apparently the sleeve half sections 44 of which elongated obturator sleeve 42 consists). Thus, the purported "Sectioning Means" of Sauer would be mounted in and would slide only with the purported "Piston Body" (50) along an axis through item 50.



assuming solely for the sake of this traversal that the Office Action's characterization of the "sectioning means," "first piston," "base," "sleeve," and "slide-mounted" of Sauer might be proper, Sauer nevertheless fails to disclose the orientation of the first axis and the second axis required by claim 1.

Sauer and its application by the Office Action to claims 1-6 have many other deficiencies, but the foregoing analysis with respect to the orientation of the first axis and the second axis sufficiently demonstrates that claims 1-6 are not anticipated by Sauer. Accordingly, the rejections based on Sauer cannot stand, and the withdrawal of those rejections is respectfully requested.

Conclusion

In view of the reasons given above, reconsideration of this application and the timely allowance of pending claims 1-6 are respectfully requested. It is believed that this paper addresses all of the pending claims and other matters sufficiently to support the allowance of all of the pending claims. If the Examiner believes any further issues in this case hinder issuance of a notice of allowance of all pending claims, the courtesy of a telephone interview with the undersigned *before further action* in this case is respectfully requested.

The January 27, 2009, Office action contains a number of statements potentially reflecting characterizations of various claims, supporting descriptions, and/or patent or patent application references, but regardless of whether any such statements are addressed in this response, the Principal (as defined in 37 C.F.R. § 1.32(a)(3)) declines to automatically subscribe to any statement or characterization in the Office action. Although the Office Action's rejections of claims 1-6 have been traversed as set forth above without reference to many of such statements, all rights to dispute statements regarding such rejections later in any subsequent applications or causes of action relating to this application or any other application are expressly reserved.* Accordingly, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because

* In particular, the Office Action's rejections of the dependent claims have not been addressed herein apart from their independent base claim 1, but all rights to dispute statements regarding such rejections later in this or any subsequent applications or causes of action relating to this application or any other application are expressly reserved.

Applicant : Paolo Mangione
Serial No. : 10/575,065
Filed : May 30, 2006
Page : 10 of 10

Attorney's Docket No.: 21249-0020US1 — LDR/12/US

the demonstrations made above are not exhaustive, there are reasons for patentability of the pending claims (and/or other claims) that have not been expressed. Nothing in this paper should be construed as conceding any issue with regard to any claim.

The Commissioner is hereby authorized by this written request to treat this or any concurrent or future reply that requires a petition for an extension of time under 37 C.F.R. § 1.136(a) for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The Commissioner is further authorized to charge all required fees, including without limitation excess claim fees or other fees under 37 C.F.R. § 1.16 or any required extension of time fees or other fees under 37 C.F.R. § 1.17, to Deposit Account No. 06-1050, on which the undersigned is authorized to sign, and to treat such authorization to charge Deposit Account No. 06-1050 as a constructive petition for an extension of time in this or any concurrent or future reply requiring a petition for an extension of time under 37 C.F.R. § 1.136(a) for its timely submission. The Commissioner is further hereby authorized to credit any overpayment to Deposit Account No. 06-1050, referencing Attorney Docket No. 21249-0020US1.

Respectfully submitted,

Date: 7/27/09



Steve Lauff
Reg. No. 58,830

Fish & Richardson P.C.
One Congress Plaza
Suite 810
111 Congress Avenue
Austin, TX 78701
Telephone: (512) 472-5070
Facsimile: (877) 769-7945